

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOE, et al.,

Plaintiffs,

-against-

BEDFORD CENTRAL SCHOOL DISTRICT,
et al.,

Defendants.

ORDER

18-CV-11797 (PMH)

PHILIP M. HALPERN, United States District Judge:

Counsel for all parties appeared for an in-person pretrial conference on September 28, 2023. As discussed on the record, jury selection and trial in this matter will proceed on October 10, 2023. All parties and counsel shall therefore appear on October 10, 2023 at 9:00 a.m. in Courtroom 520 of the courthouse located at 300 Quarropas Street, White Plains, New York 10601.

After reviewing the documents submitted to the Court and hearing from the parties regarding Defendant Christopher M. Manno's unavailability for trial pursuant to Federal Rule of Civil Procedure 32(a)(4), the Court directed Defendants to submit to Chambers, via email at HalpernNYSDChambers@nysd.uscourts.gov, by **October 3, 2023**, additional documentation regarding Defendant Manno's basis for unavailability pursuant to the Court's directives at the conference. The Court, upon receipt of the additional documentation, and with the consent of Plaintiffs, shall permit the designated deposition testimony to be read at trial. The parties shall meet and confer regarding the use of Defendant Manno's deposition testimony and, by **October 3, 2023**, file a joint letter outlining the proposed procedure and jury instructions to be used in conjunction with the reading of Defendant Manno's deposition testimony.

The Court construed Defendants' September 26, 2023 letter (Doc. 160) as a motion to designate defense witness Dr. Charles Catanese unavailable for trial pursuant to Federal Rule of Civil Procedure 32(a)(4) and denied the motion for the reasons stated on the record. In the event that Dr. Catanese becomes unavailable pursuant to Federal Rule of Civil Procedure 32(a)(4), the Court will permit Dr. Catanese to testify via video conference, provided that Defendants facilitate the logistics of such video conference testimony so as not to interfere with the trial. Alternatively, should Dr. Catanese later be determined to be unavailable, Dr. Catanese will not be permitted to testify telephonically without consent of Plaintiffs. The parties are directed to meet and confer regarding the remote testimony of Dr. Catanese and, by **October 3, 2023**, file a joint letter regarding the status of Dr. Catanese's availability to testify in-person and/or any proposal to take the remote testimony of Dr. Catanese.

As explained more fully on the record during the appearance, the parties are directed to meet and confer regarding the Court's directives and instructions regarding changes to the Proposed Joint Pretrial Order (Doc. 156), Joint Order and Stipulation, Summary of the Case, and proposed Verdict Sheet (Doc. 158); and, by **October 3, 2023**, file the revised pretrial materials via ECF. Plaintiffs shall email the revised joint pretrial materials and Jury Instructions (Doc. 146), in Word format, to Chambers.

See Transcript.

SO ORDERED.

Dated: White Plains, New York
September 29, 2023



PHILIP M. HALPERN
United States District Judge